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90-1819

No. _____

Supreme Court, U.S.
FILED
MAY 13 1991
OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

October Term 1991

HENRY ANDERSON,

Petitioner,

VS

ENVIRONMENTAL HEALTH DEPARTMENT, WES GEBB, CALAVERAS COUNTY HEALTH DEPARTMENT, HARVEY R. LaBOUNTY, ALLEN CONSTRUCTION, GERALD HERBERT ALLEN,

Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

Henry Anderson
676 Covey Road
Valley Springs
Ca. 95252

QUESTIONS PRESENTED FOR REVIEW

A. Can mandatory provisions of the XIV Amendment to the U.S. Constitution be nullified by rules of procedure?

B. Can Petitioner's rights of citizenship be abridged by rules of procedure?

C. What are the standards of meaning and application for the ambiguous phrase "in the interest of justice" used in statute 28 USC 1404?

D. What "equal standards" are used to divide the state into equal court districts?

E. Where does Petitioner secure justice under the law, when judges*,** violate Petitioner's inviolate rights to Trial by Jury?

F. Whether use of proprietary stamping devices by defendant's create a contract in fact and in law by the defendants?

G. Can the judges prohibit discovery of additional evidence?

H. Can judges ignore discovery of addi-

tional evidence?

I. Is the pro se Petitioner required to know all the rules of procedure made by the courts?

J. In presenting evidence of practice and policy of defendants how does the actual evidence (page 5, ordinance exhibit) compare with an attempt to make a verbal description of that practice and policy?

K. When judge* fails to afford petitioner his rights to present evidence in open court, is it unjustifiable discrimination, or practice and policy of the judge?

L. Can the Petitioner provide exact letter size exhibits in a separate type of volume, such as an "exhibit appendix" for use of the Court?

M. Whether the Order Appendix C, made by defense counsel Reiner and adopted by the judge** Vukasin, shows unethical collusion between judge** Vukasin & Reiner with Reiner's self serving sanctions request?

TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED FOR REVIEW . .	i
TABLE OF CONTENTS.	iii
TABLE OF AUTHORITIES	iv
OPINIONS BELOW	2
JURISDICTION	3
CONSTITUTION and STATUTES. . . .	4
CALAVERAS COUNTY ORDINANCE 1285 . .	5
STATEMENT OF THE CASE	6
EXECUTED COUNTY ORDINANCE 1285 . .	10
CONTRACT SPECIFICATIONS	11
PLOT PLAN DRAWING.	12,13
PLOT PLAN FACE SHEET	14,15
PHOTO #1, OPEN DITCH SEWAGE . . .	20
PHOTO #2, FRACTURED OUTLET PIPE . .	21
PHOTO #3, SPLIT THIN WALLED PIPE . .	22
PHOTO #4, GARBAGE DUMPED BY CONTRACTOR	23
ARGUMENT	25
REASONS FOR GRANTING THE WRIT . .	32
1. CONFLICTS OF DECISION BETWEEN DIFFERENT COURTS OF APPEALS. . . .	32
2. REJECTION & IGNORING by the 9th CIRCUIT COURT OF APPEALS & THE DISTRICT COURTS of the STANDARDS SET BY THIS COURT for the EVALUATION OF PROPERTY RIGHTS	33

TABLE OF CONTENTS, cont. Page

3. WHETHER the DEFINITION of CITIZEN in the XIV AMENDMENT can be NULLIFIED by AMBIGUOUS RULES of PROCEDURE . . 33

4. WHEN a UNITED STATES COURT OF APPEALS HAS DECIDED AN IMPORTANT QUESTION OF FEDERAL LAW WHICH HAS NOT BEEN, BUT SHOULD BE SETTLED BY THIS COURT. 35

CONCLUSION 36

TABLE of AUTHORITIES

American Railway Express Co. v Levee
263 U.S. 19 31

Butz v Economou
438 U.S. 478 31

Lynch v Household Finance Corp.
92 S. Ct. 1113 33

Polk Co. v Dodson
454 U.S. 312 31

U.S. v Lee
106 U.S. 220 26

U.S. v Mandel
541 F.2d 1363. 28

APPENDIX

A. ORDER, COURT OF APPEALS

B. MEMORANDUM, COURT OF APPEALS

C. PROPOSED ORDER, JUDGE** VUKASIN

D. MEMORANDUM, COURT OF APPEALS

E. JUDGMENT by COURT CLERK

F. ORDER, JUDGE* COYLE

No. _____

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ENVIRONMENTAL HEALTH DEPARTMENT, WES GEBB, CALAVERAS COUNTY HEALTH DEPARTMENT, HARVEY R. LaBOUNTY, ALLEN CONSTRUCTION, GERALD HERBERT ALLEN,

Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Petitioner HENRY ANDERSON, respectfully prays that a writ of certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Ninth Circuit Court of Appeals refusal to support the United States Constitution and obey decisions of this United States Supreme Court.

OPINIONS BELOW

The Court of Appeals denial of a petition for rehearing appears in Appendix A. The Opinion of the Court of Appeals is an unpublished written Opinion of the Court & is set out in Appendix B to this Petition. Appendix C is the Order of the District judge** for Northern District of California, which was fabricated by the defense counsel, & used by judge** and that order has some words & phrases deleted by means of a line drawn thru the words, and raises questions about the propriety of the person making the deletions.

Appendix D, is an unpublished opinion of the Court of Appeals in a related case in which judge*, ignored the fraud & concealment of fraud by defendants.

Appendix E is a discrimnatory order by judge*, which deprived petitioner of his rights to equal protection of the laws, in that related case, involving fraud.

JURISDICTION

Subject matter in the appellate court was presumed to be based on 28 USC code sections 1291 and 1294.

The date of judgment in the Ninth Circuit Court of Appeals was January 24, 1991.

The date of the denial for a petition for rehearing in the Ninth Circuit Court of Appeals was February 14, 1991.

This petition for certiorari was filed within 90 days of that date.

This Court's jurisdiction is invoked under 28 U.S.C. Section 1254 (1).

Subject matter jurisdiction in the district Court was based on Federal question, jurisdiction under U.S. Constitution Article I, Section 10, Article III, section 2 and the VII and XIV Amendments to the Constitution.

CONSTITUTIONAL PROVISIONS and RULES

Amendment [VII] [1791]

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Amendment XIV [1868]*

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Rule 38. Jury Trial of Right

(a) Right Preserved. The right of trial by jury as declared by the Seventh Amendment to the Constitution or as given by a statute of the United States shall be preserved to the parties inviolate.

There are other rules of procedure involved, which are set forth thruout the brief, where they are relevant.

Page 5, contains an enlargement of Calaveras County Ordinance 1285 which is the local law, for the "COLOR OF LAW used by defendant's & their bogus inspector, it is not signed & was used in the year 1990.

ENLARGED SAMPLE COPY OF ORDINANCE 1285

A copy of this Ordinance 1285 was applied by means of a stamping device used by defendants bogus inspector James Felhey to authenticate the Plot Plan drawing supplied by Anderson note the authority given by Calaveras County Health Department's printed signature and the validation given by James Felhey signing the stamp on the Plot Plan drawing shown on pages 10 and 13, herein.

CALAVERAS COUNTY HEALTH DEPARTMENT
ENVIRONMENTAL HEALTH

This parcel was inspected on _____ and complies with Calaveras County Sewage Ordinance 1285. Approval to install the system as designed on this parcel is based upon the assumption that the soils data submitted and used as a basis for this approval is representative of the soils in the sewage disposal area. This approval is subject to confirmation of soils data at the time of open trench inspection. Upon application and payment of the required fee, a permit for installation of the septic system will be issued.

If Calaveras County Ordinance 1285 is amended prior to issuance of a sewage permit, this lot may be subject to further review.

This statement of compliance is transferrable with owners title of the property

CALAVERAS COUNTY HEALTH DEPARTMENT

Date_____ By_____

STATEMENT OF THE CASE

This Petition involves 2 contracts for improvements to Anderson's real property. The improvements consisted of planning and installing a private sewage disposal system on Anderson's real property.

The first contract was between Anderson and defendant Environmental Health Department, defendant will hereafter be referred to as Environmental H.D., that defendant agreed to furnish specifications, plans & inspection services required for the construction of a septic tank system on Anderson's property, upon payment of the fees and costs by property owner, Anderson.

Defendant demanded that a plot plan of the property be furnished by Anderson to the defendant Environmental H.D. with the demand that Anderson would make 3 excavations exposing the soil, at the proposed location of the septic tank system, & the defendant's employee/inspector would inspect the excavations for soil porosity.

Defendant Environmental H.D. is a subdivision of Calaveras County Health Department and James Felhey was their employee.

Petitioner Anderson prepared the required Plot Plan sheet, a partial copy of which is shown on pages 10 & 11.

Note the upper stamp impression put on the drawing by the defendant's inspector James Felhey, and the lower stamp setting forth specifications for installing parts of the system.

Defendant Calaveras County Health Department's authorization for the stamps is given in the title of the upper stamping & in the printed signature at the lower part of the stamp & their authorized inspector was James Felhey.

A partial portion of defendants plot plan face sheet is shown on pages 12 & 13 infra, Note the FOR OFFICE USE ONLY title.

Those two documents were kept in the official files of the defendants.

Those copies give proof of the policy and practice of defendants Environmental Health Dept., & Calaveras County Health Department's use of County Ordinance 1285 as authority for the defendants actions.

The sewage disposal system constructed by Allen Construction & inspected and accepted by the County's inspector, was defective and did not operate as it was supposed to; the system drained slowly & gave off nauseating odors, becoming a public nuisance.

Anderson complained to the defendants about the slow drainage and odors issuing from the completed system, defendants ignored Anderson's complaints, & defendants did nothing in response to the complaints.

Anderson brought suit in U.S. District Court in Fresno, California against the defendants.

Petitioner's compliance with defendant Environmental Health Dep'ts., contractual

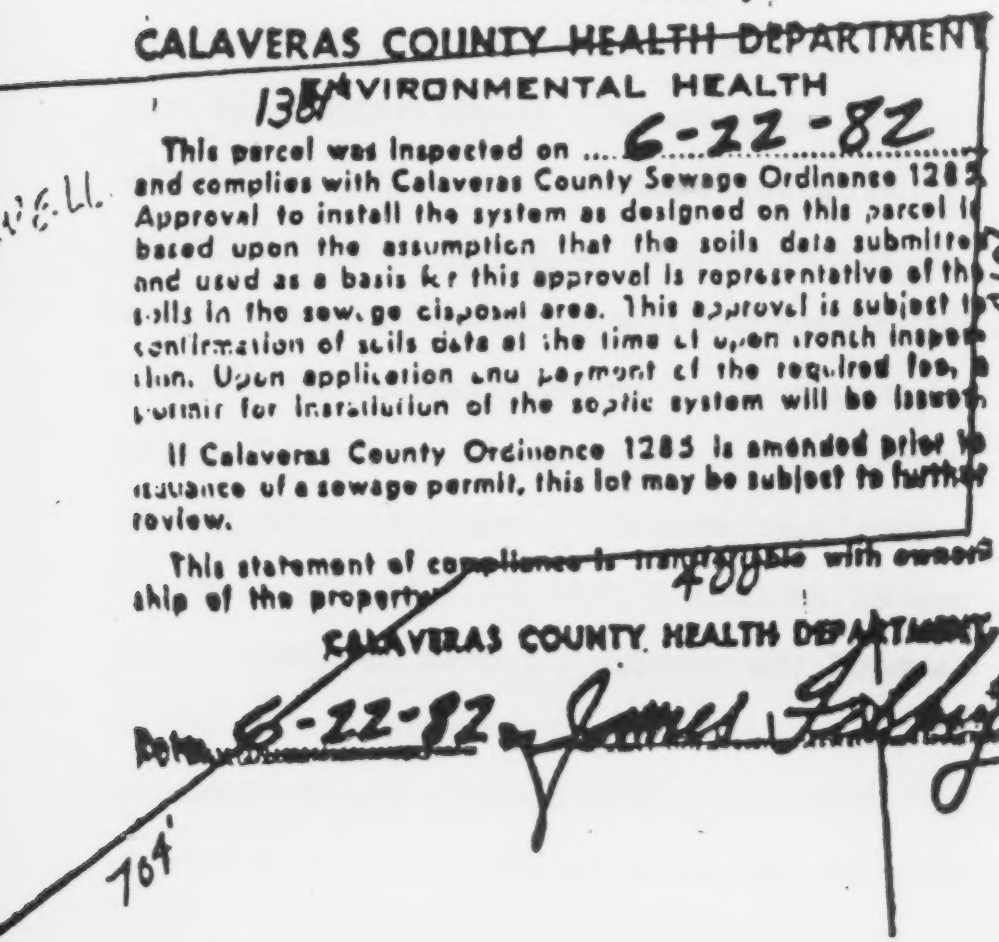
demands and specifications began in June 1982; Anderson believed in the claims & authority of defendant's inspector Felhey, & Anderson had the right to believe in the truth of all statements made by J. Felhey.

Anderson was informed on or about February 13, 1989, by defendants that their inspector J. Felhey was hired by Calaveras County as a "SANITARIAN AIDE". Anderson became outraged to find that he had been defrauded of his civil & contractual rights by defendant's use of the bogus inspector.

For more than "S E V E N" long years defendants had been concealing their fraudulent use of an incompetent sanitarian employee as an inspector, capable of making intelligent decisions regarding the proper use of methods & materials in the construction of the sewage disposal system.

That fraud was the practice and policy of defendant Environmental Health Department of Calaveras County.

Attached below is an enlarged copy of the upper stamping shown on the Plot Plan Sheet, note specific mention of Calaveras County Ordinance 1285 & date 6-22-82, and signature of acting inspector James Felhey Anderson believed in the truth of Felhey's claims and Anderson had a right to believe those claims, of defendant Environmental Health's inspector James Felhey.



This copy shown below is a full sized copy of Calaveras County's specifications for the construction of the private sewage disposal system on Anderson's property.

The final words in the specifications of "ONE FOOT MINIMUM OF BACKFILL" specify how the system is concealed from view after the system is completed, the soil covering is an essential part of the system.

The system cannot operate properly unless it has the soil covering.

The specifications were stamped on the Plot Plan drawing by inspector J. Felhey.

300'+ WELL

QUAIL OAKS SUBDIVISION

A MINIMUM 1200 GALLON SEPTIC TANK WITH 2 LEACH LINES EACH TO BE 25 FOOT IN LENGTH TO BE 3 FOOT DEEP 3 FOOT WIDE WITH 18 INCHES OF CRUSHED, WASHED ROCK BELOW LEACH PIPE, 2 INCHES OVER PIPE AND ONE FOOT MINIMUM OF BACKFILL.

HENRY ANDERSON

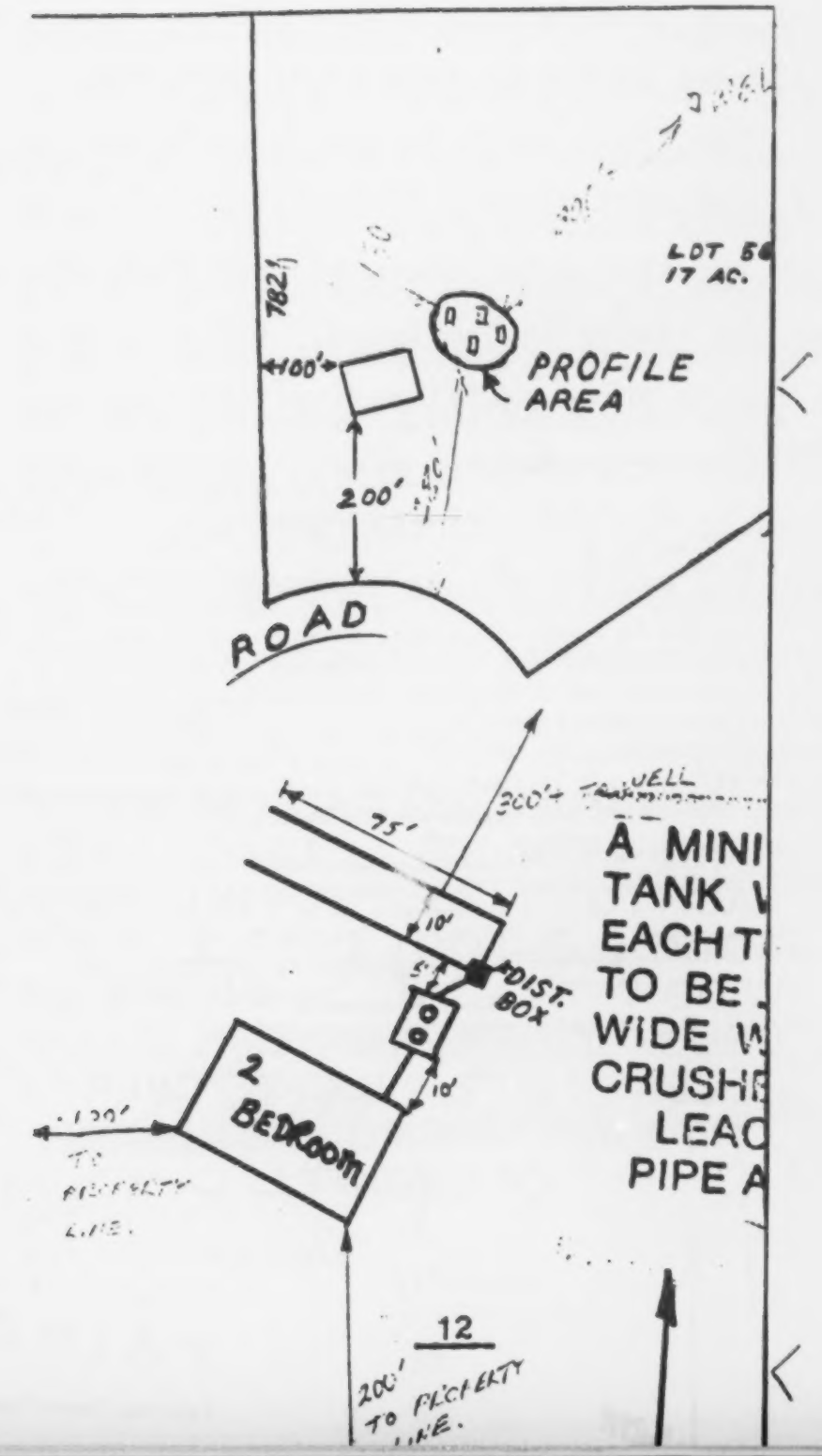
Rec 3143

PAID JUN 1

Calaveras County Health Dep

PROPERTY LINE.

NORTH



SOIL PROFILE TRENCH
LOCATION
A.P.N. 46-33-05

CALAVERAS COUNTY HEALTH DEPARTMENT
ENVIRONMENTAL HEALTH

This parcel was inspected on 6-22-82
and complies with Calaveras County Sewage Ordinance 1285.
Approval to install the system as designed on this parcel is
based upon the assumption that the soils data submitted
and used as a basis for this approval is representative of the
soils in the sewage disposal area. This approval is subject to
confirmation of soils data at the time of open trench inspec-
tion. Upon application and payment of the required fee, a
permit for installation of the septic system will be issued.

If Calaveras County Ordinance 1285 is amended prior to
issuance of a sewage permit, this lot may be subject to further
review.

This statement of compliance is transferable with ownership of the property.

CALAVERAS COUNTY HEALTH DEPARTMENT

Date 6-22-82 By James Fabbri

NO
SCALE

QUAIL OAKS
SUBDIVISION

MUM 1200 GALLON SEPTIC
WITH 2 LEACH LINES
O BE 75 FOOT IN LENGTH
3 FOOT DEEP 3 FOOT
ITH 18 INCHES OF
ED, WASHED ROCK BELOW
H PIPE, 2 INCHES OVER
ND ONE FOOT MINIMUM
OF BACKFILL.

HENRY ANDERSON
Rec 3143
PAID JUN 16 '82

13

FOR OFFICE USE

PLOT PLAN FACE SHEET

	date	individual
Received	6-18-82	Mary
Plan Check		
On-Site		
Approved		
Fee: Receipt No.	3143	

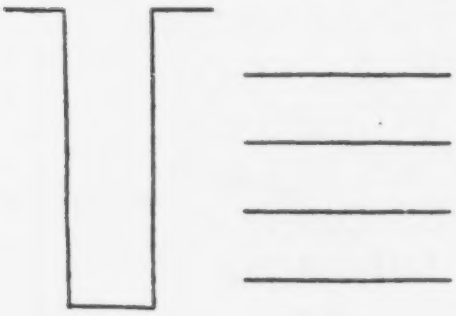
Plan Check	On-site	
1. ☐	☐	Owners name, address phone, job-site
2. ☐	☐	Names of streets/roads
3. ☐	☐	Property dimension and north arrow
4. ☐	☐	Existing structures, hard surfaces, drive-way etc.
5. ☐	☐	Sewer outlets, septic tank and drainfield location
6. ☐	☐	Existing sewage disposal system.

Comments: _____

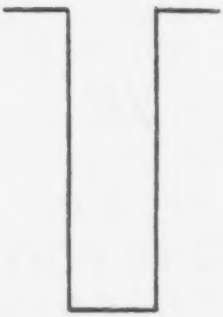
_____

Soil Profiles

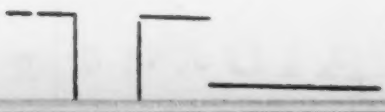
No. 1



No. 2



NO. 3



Ground water depth ___

ONLY

A.P.N. 46-033-05

Lot No. _____ Unit No. _____

Subdivision Quail Oaks Subdivision

Owner: Henry Anderson

Telephone (Home) _____ (work) _____

Mailing Address PO Box 655
Roseville, Ca

Plan Check	On-site	
7. ☐	☐	existing trees
8. ☐	☐	water wells
9. ☐	☐	depth to ground water
10. ☐	☐	flood hazard
11. ☐	☐	domestic water supply
12. ☐	☐	Set backs
13. ☐	☐	Rivers, streams, water-courses and culverts

6-22-82 J.J.

Comments

ALL HOLES - 0 TO 2'.

RED SANDY CLAY 2' TO 8'

RED SANDY MATERIAL, VERY LITTLE CLAY CONTENT. THE HOLES LOOK THE BEST NEAREST THE HOUSE PAD.

Judge* Coyle in his ORDER, Appendix E, his five questions presented to Anderson, asks in question 1) What constitutional rights was plaintiff deprived of by defendant County of Calaveras?

It is elementary that the first duty of any government official or employee is honesty, truth in their actions, the Constitution provides for Equal Protection of the laws, for every person. It is obvious when any official or employee lies to the person confronting the official, the person being lied to is being deprived of his rights to EQUAL PROTECTION OF THE LAWS.

Judge* Coyle shows his prejudice & incompetence, in that Coyle's attitude fails to recognize the fundamental, ethical intent of the XIV Amendment to the Constitution of the United States.

There is no part equal or almost equal the command "EQUAL" allows no discretion by the government official or employee involved.

Judge* Coyle asks in question number, 2) What facts support plaintiff's claim of deprivation of Constitutional rights?

The first fact is the use of the bogus inspector James Felhey by the defendants. The second fact was presenting the sanitarian aide as a competent inspector.

The next fact was of maintaining the lie for SEVEN YEARS, from 1982 to 1989.

When the system malfunctioned due to errors in knowledge & judgment made by inspector James Felhey, Anderson was deprived of his rights to Equal protection of the laws & due process of law.

Another fact was the deliberate concealment of the fraud by defendant's use of their sanitarian aide as inspector, & with no knowledge of septic tank systems James Felhey's inspection was a farce.

The Judgment in a Civil Case prepared by the Court Clerk, Appendix D, does not make any reference to Anderson's claims

of deprivation of Equal Protection of the Laws contained in the Complaint on Page 3, Paragraph 16 & on page 6, Paragraphs 38 & 40.

It is obvious that any plans & specifications by defendants were furnished under color of law, color of the defendant's authority.

In his Amended Complaint Anderson alleged deprivation of Equal Protection of the Laws on page 4, Paragraph 17, page 8 Paragraphs 54 and 56.

Those Constitutional deprivations were unjustifiable discrimination made by the defendant's inspector and were made under color of law, Complaint page 6, Para. 40.

When his Complaint was filed, Anderson did not allege the true status of defendant's inspector, because it was not known and the true status of their inspector became known after that Court filing and as such it was newly discovered evidence and

justified Anderson's filing of his Amended Complaint.

Judge Coyle* ignored the newly discovered evidence & Anderson's claims of deprivation of Equal Protection of the laws when he dismissed Anderson's Complaint.

The court ignored the fact that while he dismissed the Complaint, he could not cause the material facts of newly discovered evidence to evaporate.

Anderson kept carefully excavating the defective system to find out what was the reason for the odors & slow drainage.

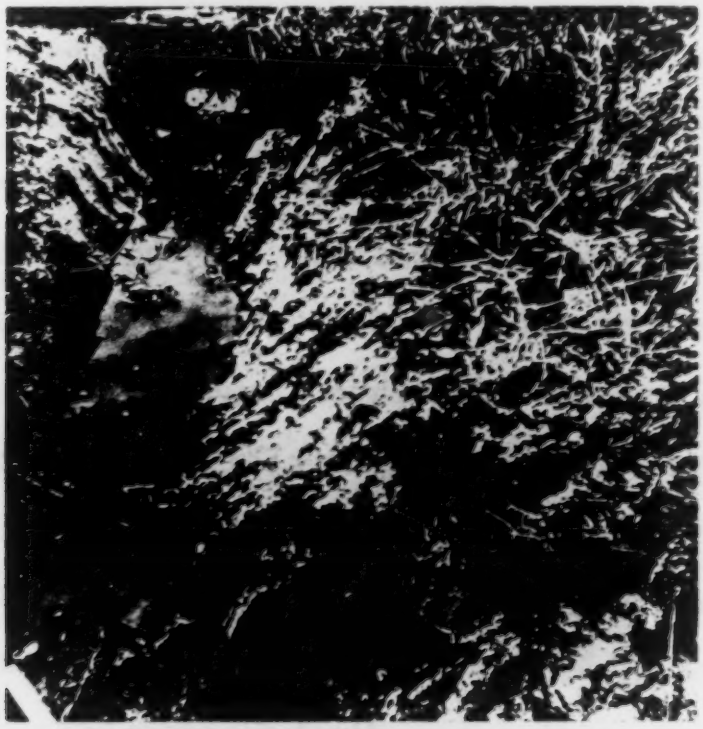
Photo #1, page 20, shows the sewage laying in the open ditch excavation. That sewage should have been flowing thru the outlet pipe to the leach lines.

Photo #2, page 21, shows the ditch after the sewage was bailed out and it shows the outlet pipe disconnected from the septic tank outlet, with the pipe laying six inches below the tank outlet. That thin

(cont. on p. 24)

PHOTO # 1

The top edge of the buried septic tank is shown in this photo # 1.

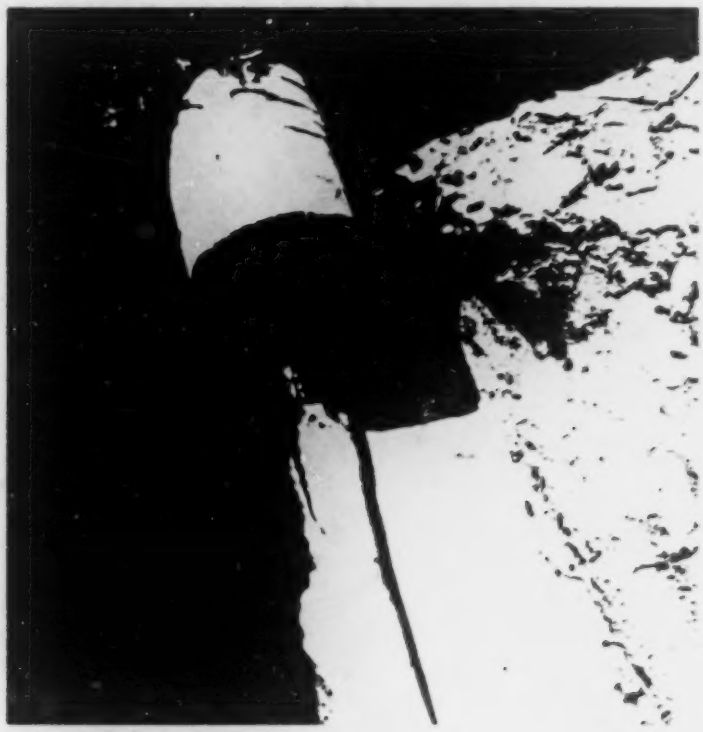


The greenish surface is the top of the sewage, which is flowing outside the pipe and concealing the broken outlet pipe.

That sewage should be flowing thru the pipe, allowing the pipe to be seen laying in the ground after the soil is removed.

PHOTO # 2

This photo shows the outlet of the septic tank after the sewage covering the tank outlet was bailed out.



The broken outlet pipe is shown laying below the tank outlet, it is obvious, parting of the outlet and outlet pipe was the reason the sewage could not flow thru the outlet pipe. The incompetent inspector, Felhey did not recognize the potential danger of Allen's incompetent work.

PHOTO # 3

This photo shows the substandard thin walled outlet pipe used by Allen in the construction of the defective system.



The wavy line on the top of the thin walled pipe is a split caused by Allen, construction dropping a large rock on top of the plastic pipe during the backfilling of the soil in the excavated trenches and was the result of incompetent workmanship by Allen Construction.

PHOTO # 4

The white material is foam plastic used in packing take out foods and meats. The blue material is some sort of plastic and was never used in the sewage system work and was brought in by Allen to dispose of.



That garbage was uncovered when the soil backfilling was removed in 1990 to examine the defective system & the photos are all newly discovered evidence, which judge** arbitrarily dismissed & that evi- was ignored by the appellate court.

walled plastic outlet pipe, split from the weight of the soil backfilling & improper placing of the soil by Allen Construction.

It is obvious two disconnected pipes cannot provide passage for the sewage. The wavy line near the end of the outlet pipe is the split in the outlet plastic pipe.

The use of substandard thin walled plastic pipe by Allen Construction was accepted by the incompetent inspector for defendant Environmental Health Department, & the improper soil backfilling by Allen Construction aggravated the defective installation procedures. When the septic tank was new & empty, sewage kept running into the tank, when the tank became full the sewage soaked into the sandy soil, & when the soil became saturated, the soil gradually began to emit noxious odors and became a constant nuisance on the property.

All that due to the use of the incompetent, ignorant inspector, James Felhey.

ARGUMENT

The United States Constitution is the Supreme Law of the Land.

Article VI, (2) This Constitution, and the Laws of the United States which shall be made in pursuance thereof. . . under the Authority of the United States shall be the supreme law of the Land; and the judges in every State shall be bound thereby, . . .

Federal Rules of Civil Procedure.

Rule 38. Jury Trial of Right

(a) Right Preserved. The right of trial by jury as declared by the Seventh Amendment to the Constitution or as given by a statute of the United States shall be preserved to the parties inviolate.

Petitioner Anderson demanded his right to Trial by Jury in his Complaint & Amended Complaint.

Judge* R.E. Coyle violated Anderson's inviolate rights to Trial by Jury.

That violation shows Coyle's contempt for the Constitution & the PEOPLE, he acts as if he is above the Constitution & laws.

The Court of Appeals ignored that violation, thereby condoning the violation.

U.S. v Lee, 106 U.S. 220, 1 S. Ct.261
No man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impugnity. All creatures of the government from the highest to the lowest are creatures of the law and bound to obey it.

2. Defendant's fraud is self evident deprivation of equal protection of the laws for petitioner Anderson.

Amendment XIV [1868]*

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

On 6/18/82 at the time of contracting for the designs & specifications for construction of the private sewage disposal system on Anderson's property under authority of Calaveras County Ordinance 1285 defendant's had represented to Anderson that their inspector James Felhey was competent to make inspections and decisions relevant to the construction of the system.

Anderson believed those statements of

the defendants & Anderson had the right to believe in the truth of those statements.

A series of 31 questions was sent by Anderson to defendant Environmental Health for information regarding matters relevant to the controversy.

Defendants response to question #1 was "Inspector Felkey (Felhey) was hired as a sanitarian aide some time in 1979 exact date unknown. His last date of employment, was June 30, 1983.

An aide is an assistant, an inspector is a person competent to make decisions by reason of his technical education & experience.

That admission by defendant's of using a bogus inspector was the first time that Anderson was given the truth about the employment status of James Felhey.

From June 18, 1982 until January 1989, defendant's had fraudulently concealed the true status of their bogus inspector from Anderson.

U.S. v Mandel, 591 F.2d 1363, 10th C.A. The cited cases are premised on the underlying theory that a public official acts as "trustee for the citizens & the state". . . "and thus owes the normal fiduciary duties of a trustee e.g. honesty & loyalty to the citizens and the state. The logic continues that as the cestui, the public is entitled to the faithful and disinterested services of government servants & employees, and a public official may not deprive the public of its rights.

Defendants Environmental Health and Calaveras County Health department as fiduciary agents for the People, have no authority to lie to Anderson & misrepresent & conceal the expertise of their inspector.

The use of that incompetent inspector by defendants is the real reason why the sewage disposal system designed by defendants, has never operated properly.

Judge Coyle* has no academic, professional, technical, or practical qualifications in designing, constructing or inspecting private sewage disposal systems.

Judge* Coyle is absolutely ignorant of the reasons & use for the distribution box, and is not competent to make judgments .

3. Constitutional Amendment XIV in part.

> Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.

Petitioner Anderson is a resident and citizen of the State of Californi.

Under the XIV Amendment Petitioner is entitled to the protection & benefits due all citizens, by the State of California.

Federal Rules of Civil Procedure.

Rule 1. Scope of Rules

These rules govern the procedure in the United States district courts in all suits of a civil nature whether cognizable as cases at law or in equity or in admiralty, with the exceptions stated in Rule 81. They shall be construed to secure the just, speedy, and inexpensive determination of every action.

Note the mandatory words; they "SHALL" be "CONSTRUED" to secure the "JUST, SPEEDY and INEXPENSIVE" determination ... .

Just implies impartial, devoid of prejudice & giving parties equal opportunity to present their facts & claims.

In any action involving human judgment prejudice is a constant factor, and the

United States Constitution is designed to overcome prejudice.

Judge Coyle* is prejudiced against petitioner and he abused his office & acted arbitrarily in dismissing Anderson's case without conducting a full hearing.

Prejudiced judges such as judge* Coyle use the FRCP venue rules to cheat parties out of their rights to impartial hearings.

United States Code 28, Section 1404.

§ 1404. Change of venue

(a) For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought.

That Section 1404 uses the words in the "INTEREST OF JUSTICE", that includes ways & means to overcome prejudice of the court or judge, e.g. by changing the venue of the proceedings.

Federal Rules of Civil Procedure.

Rule 82. Jurisdiction and Venue Unaffected

These rules shall not be construed to extend or limit the jurisdiction of the United States district courts or the venue of actions therein.

Polk Co. v Dodson, 454 U.S. 312, 326, "The municipal policy must be the moving force of the constitutional viola tion.

U.S. Constitution Article VI, Clause 2 in part;

This Constitution, and the laws of the United States which shall be made in pursuance thereof; . . . under the authority of the United States, shall be the Supreme Law of the Land; and the judges in Every State shall be bound thereby.

American Railway Express Co. v Levee, 263 U.S. 19. The law of the United States cannot be evaded by the forms of local practice. The local rules applied as to the burden of proof narrowed the protection that the defendant had secured and therefore contravened the law.

The local rules on venue cannot deny petitioner his substantive rights of Equal Protection of the Laws, and 28 USC 1404, allows the change of venue in the interest of justice, to combat the prejudice of the court.

A cause of action & damages remedy can be implied directly under the Constitution when the Due Process Clause of the Fifth Amendment is violated. Butz v Economou, 438 U.S. 478.

REASONS FOR GRANTING THE WRIT

1. Conflicts of Decision Between Different Courts of Appeals.

In U.S. v Mandel, infrs p.28 the 10th Circuit Court of Appeals, stressed the duties of public officials as being in the nature of trustees acting for the public and those duties involved honesty in acting for and with the public.

This case involves fraud & concealment of that fraud for 7 years by the county officials; which was ignored by judge* and judge** and condoned by the 9th Circuit Court of Appeals.

Those 2 opposing standards of conduct by the appellate courts, require exercise of this Court's powers of supervision to maintain uniformity of decisions in the appellate courts.

Mandel, also states the public cannot be deprived of its rights, and in this case defendant's cannot deprive Anderson of his constitutional rights to Due Pro-

cess of Law & Equal Protection of the Law.

2. Rejection & Ignoring by the 9th Circuit Appeals Court & the District Courts of the Standards set by this Court for the Evaluation of Property Rights.

Rights in property are basic civil rights. Lynch v Household Finance Corp. 92 S. Ct. 1113.

This case involves petitioner's rights in real property.

The trial court rejected that standard established by this Court & the Court of Appeals approved the trial court's action.

This Court should exercise its author- and Order the lower courts to obey the decision of this Court.

3. Whether the Definition of Citizen in the XIV Amendment can be nullified by Ambiguous Rules of Procedure?

The Federal Rules of Civil Procedure are doing by arbitrary rules of procedure, what the states are forbidden to do by the United States Constitution.

The classification by area of citizens of Californis for court purposes, such as northern, eastern, central, southern dis-

tricts deprives citizens of Equal Protection of the Laws, in that there no standards used for creation of districts which operate equally.

It is impossible to create any kind of standard that complies with the equality command of the Constitution.

The creation of districts for federal court purposes in Californi is a nominal, procedural matter, BUT the climate, population, wealth, & all other factors keep changing, they are not constants.

FEDERAL RULES OF CIVIL PROCEDURE.

§ 2072. Rules of civil procedure

The Supreme Court shall have the power to prescribe by general rules, the forms of process, writs, pleadings, and motions, and the practice and procedure of the district courts and courts of appeals of the United States in civil actions, including admiralty and maritime cases, and appeals therein, and the practice and procedure in proceedings for the review by the courts of appeals of decisions of the Tax Court of the United States and for the judicial review or enforcement of orders of administrative agencies, boards, commissions, and officers.

Such rules shall not abridge, enlarge or modify any substantive right and shall preserve the right of trial by jury as at common law and as declared by the Seventh Amendment to the Constitution.

4. When a United States Court of Appeals has Decided an Important question of Federal Law which has not been, but should be settled by this Court.

UNITED STATES CODE 28, SECTION 1404

§ 1404. Change of venue

(a) For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought.

What are the standards of meaning for the ambiguous term "interst of justice"?

Where are those standards set forth?

This Court has never defined that term and it should define what that INTEREST is and what that JUSTICE is.

justice- impartiality, fairness

interest- a right or claim to something

That interest of justice commands impartiality & when judge* Coyle arbitrarily deprived Anderson of any opportunity to present his newly discovered facts to the court, his ruling gave rise to action by Anderson, seeking change of venue in the refiling of his case with the addition of Anderson's newly discovered evidence.

CONCLUSION

For the above listed reasons a writ of certiorari should issue to review the opinions of the 9th Circuit Court of Appeals presented in the Appendix to the Petition.

ALSO; Petitioner requests this Court to rule on the conflicts of opinion among the courts of appeal, regarding the deprivation of the public's rights to honesty by government officials and employees;

ALSO; for this Court to rule on the rejection & ignoring by 9th Circuit Court of Appeals, of the property rights standard established by this Court, and;

For this Court to recognize that decisions by appellate courts, also include failure of the courts to apply rulings made by this Supreme Court, and;

For this Court to clarify the ambiguities in the laws, shown by petitioner, and

For this Court to return this case to the lower courts for action, including the petitioner's newly discovered evidence.

Dated May 6, 1991. By _____
Henry Anderson

APPENDIX A

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

HENRY ANDERSON Plaintiff-Appellant, v. ENVIRONMENTAL HEALTH DEPARTMENT; WES GEBB; CALAVERAS COUNTY HEALTH DEPARTMENT; HARVEY R. La BOUNTY; ALLEN CONSTRUCTION; GERALD HERBERT ALLEN; Defendants-Appellees.	Case No. 90-15850 D.C. No. CV-90-0483-JPV ORDER FILED FEB 14 1991

Before: FARRIS, HALL and KOZINSKI,

Circuit Judges

Appellant's petition for rehearing is DENIED.

APPENDIX B

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

HENRY ANDERSON

Plaintiff-Appellant,

v.

ENVIRONMENTAL HEALTH DEPARTMENT;WES GEBB; CALAVERAS COUNTY HEALTH DEPARTMENT; HARVEY R. La BOUNTY; ALLEN CONSTRUCTION; GERALD HERBERT ALLEN,

Defendants-Appellees.

USCA No. 90-15850

D.C.No. CV 90-0483-JPV

MEMORANDUM*

FILED JAN 24 1991

Appealfrom the United States District Court for the Northern District of California, John P. Vukasin, Jr. District Judge, Presiding.

Submitted December 7, 1990**

Before: FARRIS, HALL and KOZINSKI, Circuit Judges.

Henry Anderson appeals the District Courts dismissal of his claims against Environmental Health Department, et al., and the

Courts imposition of sanctions against him in the amount of $1,000. WE AFFIRM.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. Fed R. App. P. 34(a) and Ninth Circuit Rule 34-4.

APPENDIX C

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

HENRY ANDERSON,

Plaintiff,

V.

ENVIRONMENTAL HEALTH DEPARTMENT, WES GEBB, CLAVERAS COUNTY HEALTH DEPARTMENT, HARVEY R. LaBOUNTY, ALLEN CONSTRUCTION, GERALD HERBERT ALLEN,

Defendants. /

NO. C-90-0483 JPV

PROPOSED ORDER GRANTING MOTION TO DISMISS AMENDED COMPLAINT AND FOR SANCTIONS

RECEIVED
APR 23 1990

FILED
MAY 14, 1990.

The Motion by Defendants CALAVERAS COUNTY HEALTH DEPARTMENT and WES GEBB for Order dismissing the above-entitled action pursuant to Rules 12(b)(3) and (6) and for sanctions came on regularly for hearing on the 3rd day of May, 1990 before the Honorable John P. Vukasin, Judge Presiding. The matter having been briefed and oral argument having been considered,AND GOOD CAUSE APPEARING THEREFORE,

IT IS HEREBY ORDERED that the instant

action be dismissed against the moving Defendants under Rule 12(b)(6) of the Federal Rules of Civil Procedure based upon the failure to state a claim upon which relief may be granted.

IT IS FURTHER ORDERED that this action would have been subject to dismissal for improper venue based upon Rule 12(b)(3) of the Federal Rules of Civil Procedure and the filing and subsequent maintainance of this action in this Court by Plaintiff justifies the sanctions in the sum of $1,000.00 as and for reasonable attorneys fees incurred by the Defendants in obtain- this Order

Dated: May 14 1990.

/s/_____
J. P. VUKASIN,JR.
United States District Judge

* That Order was prepared by defense counsel Valentina Reiner, #99537 on her stationary.

** The words having a line drawn thru them were cancelled by some person unknown to Plaintiff.

APPENDIX D

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

HENRY ANDERSON, Plaintiff-Appellant, V. GERALD HERBERT ALLEN, JEFFREY W. ALLEN, ALLEN CONSTRUCTION, ENVIRONMENTAL HEALTH DEPARTMENT OF CALAVERAS COUNTY, Defendants-Appellees.	USCA No. 89-15503 D.C. No. CV 88-0642 MEMORANDUM*

Appeal from the United States District Court for the Eastern District of California, Robert E. Coyle, District Judge Presiding

Submitted December 13, 1989**
San Francisco, California

Before: CHOY, TANG, and FLETCHER, Circuit Judges.

Because appellant failed to supply a transcript of the district court proceedings as required under Federal Rule of Appellate Procedure 10(b), we decline to consider appellant's claims regarding the alleged impropriety by the district judge.

Because appellant has not alleged that he was the victim of racial discrimination his complaint fails to state a claim under 42 U.S.C.S. 1981. Runyon v. McCrary, 427, U.S. 160, 168 (1976).

Because appellant has not alleged any unconstitutional policy or practice by Calaveras County Health Department, his complaint fails to state a claim under 42 U.S.C.S. 1983. City of Oklahoma City v. Tuttle, 471 U.S. 808 (1985).

Because appellant has not alleged that defendant Calaveras County had a discrimnatory intent towards him as a member of a racial or otherwise suspect class his complaint fails to state a claim under 42 U.S.C.S. 1985. Griffin v Breckenridge, 403, U.S. 88, 102 (1971).

Because appellant cannot state claims under the provisions of 42 U.S.C.S. 1981, 1983, 1985, he cannot state a claim for attorney's fees under the provisions of 42 U.S.C.S. 1988. That statute is operative

only in the event that a party prevails on a claim pursuant to one of the substantive Federal Civil Rights statutes. Kentucky v. Graham, 473 U.S. 159, 165 (1985).

The district court properly exercised its discretion to decline to exercise jurisdiction over appellants state law claims United Mine Workers v.Gibbs, 383 U.S. 715, 726 (1966).

AFFIRMED.

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* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel finds this case appropriate for submission without oral argument pursuant to Ninth Circuit Rule 34-4 and Fed. R. App. P. 34(a).

APPENDIX E

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

HENRY ANDERSON

V

GERALD HERBERT ALLEN et al.

CASE NUMBER CV-F 88-642-REC

JUDGMENT IN A CIVIL CASE

Decision by Court

IT IS ORDERED AND ADJUDGED

IT IS ORDERED that plaintiff's causes of action based on 42 U.S.C.1981,1983, 1985, 1988 are dismissed with prejudice. Plaintiff has failed to state any cause of action upon which relief may be granted for violation of the civil rights statutes.

In regard to the pendent state claims for negligence against the County for issuance of the permit, installation, inspection of the septic tank, the Court in its discretion dismisses the claims without prejudice.

The Court does not reach the merits of defendant's arguments that the statute of limitations has run on plaintiff's claims and the County is immune from liability The claims should not be asserted in Federal Court because there is no basis for jurisdiction.

Dated March 28, 1989.

J.R. GRINDSTAFF
Clerk

ENTERED
MAR 28 1989

APPENDIX F

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

HENRY ANDERSON, Plaintiff, V. GERALD HERBERT ALLEN, JEFFREY W. ALLEN, ALLEN CONSTRUCTION, ENVIRONMENTAL HEALTH DEPARTMENT OF CALAVERAS COUNTY, Defendants.	No. CV-F-88-642 REC ORDER RE: COURT'S REQUEST FOR ADDITIONAL BRIEFS

The court requests plaintiff Henry Anderson, to file responses to issues raised by the defendant County of Calaveras Motion to Dismiss or in the alternative for Summary Judgment that he was unable to answer at oral argument on February 27, 1989 because of his alleged hearing deficiency. Plaintiff must file responses to the court's inquiries within ten (10) days of the filing date of this order. If no responses are filed, the court will determine the motion on papers already before it.

At the hearing on February 27, 1989 plaintiff indicated he was unable to hear the court when asked questions. Plaintiff acting in pro per, did not bring an interpreter with him. The court instructed the plaintiff to write down the names of his general physician and hearing specialist. The plaintiff replied he could not hear. Then the court wrote this request & plaintiff was handed a pen. Plaintiff refused to name his doctors. The court took the matter under submission to determine the course to follow on the motion to dismiss.

The court, after examining the record of the hearing hereby requests plaintiff answer the following issues which are instructive on whether he stated a claim for violation of 42 U.S.C. Sections 1981,1983, 1985 and 1988.

1) What constitutional rights was plaintiff deprived of by defendant County of Calaveras?

2) What facts support plaintiff's claim

of deprivation of constitutional rights?

3) Did the County discriminate against plaintiff based on his race?

4) Did the County discriminate against plaintiff based on membership in a suspect class?

5) What is the basis of plaintiff's claim of violation of equal protection?

ACCORDINGLY, IT IS ORDERED that plaintiff answer these inquiries and file an answer within ten days of the filing date of this order. If plaintiff does not file any response, the court will determine the motion for dismissal or in the alternative for summary judgment on the papers previously submitted. The defendant may file a response to plaintiff within ten days of his answers to these inquiries. No oral arguments will be scheduled by this court unless further order so directs.

Dated: February 27, 1989.

/s/
ROBERT E. COYLE
United States District Judge